STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

BOARD OF DENTISTRY

Performance Audit Report

July 2016

Justin P. Wilson, Comptroller

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July 25, 2016

The Honorable Ron Ramsey
Speaker of the Senate
The Honorable Beth Harwell
Speaker of the House of Representatives
The Honorable Mike Bell, Chair
Senate Committee on Government Operations
The Honorable Jeremy Faison, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
Ms. Dea Smith, Director
Board of Dentistry
655 Mainstream Dr.
Nashville, TN 37243

Ladies and Gentlemen:

Transmitted herewith is the sunset performance audit of the Board of Dentistry. This audit was conducted pursuant to the requirements of the Tennessee Governmental Entity Review Law, Section 4-29-111, *Tennessee Code Annotated*.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the board should be continued, restructured, or terminated.

Sincerely,

Deborah V. Loveless

Deborah V. Loveless, CPA
Director

16113

State of Tennessee

Audit Highlights

Comptroller of the Treasury Division of State Audit

Performance Audit
Board of Dentistry
July 2016

AUDIT FINDINGS

The Board of Dentistry and its staff do not, as required by statute, ensure that all dental practices are owned by licensed Tennessee dentists and that all practice addresses are kept current and on file in dentists' practitioner profiles

Despite statutory requirements, the board and its staff do not obtain the information necessary to locate all dental practices and track and monitor office ownership to ensure that all are owned by licensed Tennessee dentists. Section 63-5-121, *Tennessee Code Annotated*, requires that active dental practices be owned by a dentist licensed to practice in Tennessee. In Section 63-51-105, *Tennessee Code Annotated*, the board is required to collect information that includes the location of each licensee's primary practice and to make that information available to the public.

The board should strive to ensure that all practitioner profile data, specifically the practice address, is complete and accurate so the board and its staff can track and monitor dental office ownership and also provide accurate information to the public for their use in making informed health care decisions. The board should establish disciplinary measures should a practitioner fail to inform the board of practice ownership, practice addresses, or changes thereto (page 3).

The Board of Dentistry should consider inspecting dental offices of those who use sedation and anesthesia to ensure compliance with regulatory requirements set forth by the board and as an industry best practice to ensure office staff and patient safety

Section 63-5-105(6), *Tennessee Code Annotated*, authorizes the board to perform on-site inspections of facilities, equipment, and personnel of dentists who use general anesthesia, deep sedation, or conscious sedation. We contacted seven southeastern states, and the Tennessee Board of Dentistry is the only board that does not require a physical office inspection prior to or after the issuance of an anesthesia or sedation permit. In January 2015, the board began having permit holders conduct self-audits, but compliance with rules and regulations has been trending downward since they were implemented.

In order to better protect the health and safety of the citizens of Tennessee and ensure compliance with rules and regulations regarding office operations, the board may wish to align its inspection practices with the best practices of its surrounding states. The board and its staff

should explore the option of performing office inspections of sedation and anesthesia permit holders to ensure that all offices of dentists who use general anesthesia, deep sedation, or conscious sedation are in compliance with all of the board's detailed rules and regulations. In addition, the board may wish to consider accepting American Association of Oral and Maxillofacial Surgeons' (AAOMS) inspection reports as an option in lieu of a state inspection for AAOMS members (page 5).

Continuing Education compliance audits of Board of Dentistry licensees could be completed in a timelier manner; the results reported more accurately to the board; and additional licenses pulled in the sample to take the place of those erroneously pulled for audit or dropped by the director for other reasons

Since at least 2012, the board has had a low percentage of its licensees compliant with continuing education requirements. According to board staff, noncompliant licensees state that they did not know continuing education was required, though it is clearly conveyed in statute, rules, policies, and the board's website. Every month the board audits a random 5% of the previous month's license renewals. Our analysis showed the director is auditing slightly less than 5% because the director is taking some files out (ineligible, waived, etc.) and not replacing them. The director tends to under-report to the board the total number of renewals audited and how many were noncompliant, and the director is inconsistent in including licensees waived or retired in audit totals. Furthermore, the director's monthly audits are taking too long (4.7 to 6 months), and the audit window for submitting proof of continuing education is too long (average 4.9 to 5.4 months). The last six months of 2015 audits were still open; in particular, July was still open as of February 4, 2016 (when data was pulled).

We recommend that the director communicate with the Information Resources Unit to arrange to have them pull not only 5% of renewals from a month but also an additional small number to be used in place of licenses removed from the audit sample by the director for any reason. This will ensure that the full 5% is audited each month. The director needs to improve the accuracy of audit result reporting to the board and become more consistent in the audit and reporting process used and time taken to achieve compliance or be deemed noncompliant. The Health Related Boards need to revise its Continuing Education Audit policy to include a timeframe within which audits must be completed to avoid having ones open four to six months (page 9).

The Department of Health's Information Technology Services Division did not retain documentation of its post-implementation review testing to ensure that the Board of Dentistry's and all Health Related Boards' licensing data was successfully migrated from the Regulatory Boards System (RBS) to the Licensing and Regulatory System (LARS) and that the licensing data in LARS is valid and reliable

The department was able to provide auditors with email documentation and User Acceptance Testing plans that show the functionality of LARS was tested prior to data migration; however, it was unable to provide post-implementation review documentation that showed all data had been successfully migrated from RBS to LARS in April 2015 and found valid and reliable.

The Department of Health should maintain documentation of testing and edit work performed on information technology projects for assurance that the data within a given system or the data migrated from one system to another is valid and reliable so that management has good data to base its decisions on (page 11).

Board vacancies are not being filled in a timely manner and some terms have not been staggered, as required by statute, so that no more than three board members' terms expire each year

As of June 30, 2016, one board position has been vacant since March 2015, one since December 2015, and another since March 31, 2016. Another became vacant as of June 30, 2016. In all but one case, the board members have continued to serve until a successor is named, as is allowed by statute. We also reviewed board members' appointments and found four board members' terms are set to expire in 2017; thus, the board is not in compliance with the statutory maximum of three members' terms expiring in any one year.

To ensure the most efficient and effective operations, the board should fill the three existing vacancies immediately as the Governor did not fill them within a month and, therefore, the board has the statutory authority to fill the vacancies. The board should also consult with its legal counsel as to the proper way to bring members' terms into compliance with the statutory requirement that only three terms expire in any given year (page 12).

OBSERVATION

The Board of Dentistry is not properly including required statements of necessity in meeting minutes and is not filing such statements with the Secretary of State when, to achieve a quorum, members are allowed to tele-participate in meetings

Between January 2013 and March 30, 2015, the board allowed for teleconferencing to achieve a quorum in two meetings, neither of which reflected a statement of necessity in its minutes. In addition, only one of the meetings had a determination of necessity on file with the Secretary of State's office.

Statements of necessity, including the facts and circumstances of that necessity, should be formally made by the board and included in the minutes every time a physical quorum at the board meeting site is not possible and members are allowed to participate by electronic or other means to achieve a quorum. The board and its legal counsel should ensure that such statements are filed with the Secretary of State's office within two days of the meeting date (page 13).

Performance Audit
Board of Dentistry

TABLE OF CONTENTS

TABLE OF CONTENTS (Continued)

Performance Audit
Board of Dentistry

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the Board of Dentistry was conducted pursuant to the Tennessee Governmental Entity Review Law, Title 4, Chapter 29, *Tennessee Code Annotated*. Under Section 4-29-238, the Board of Dentistry is scheduled to terminate June 30, 2017. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the board and to report to the Joint Government Operations Committee of the General Assembly. This audit is intended to aid the Joint Government Operations Committee in determining whether the board should be continued, restructured, or terminated.

HISTORY AND ORGANIZATION

Created by Section 63-5-101 et seq., *Tennessee Code Annotated*, the Board of Dentistry consists of eleven members appointed by the Governor for three-year terms: seven practicing dentists, two dental hygienists, one dental assistant, and one consumer member. Members cannot serve for more than three consecutive full terms, but they may be reappointed after a three-year break from their previous service on the board. The Governor appoints the members of the board from a list of qualified nominees submitted by interested dentist, dental hygienist, and dental assistant groups, trying to ensure that at least one person serving on the board is 60 years of age or older and that one is a member of a racial minority. Candidates must be a Tennessee resident and be licensed to practice in this state for a period of five years immediately prior to their appointment. If the Governor does not fill a vacancy within 30 days, statute requires the board to fill it. The Governor may remove members for misconduct at the recommendation of the remaining board members.

The Division of Health Licensure and Regulation employs for the board the necessary administrative and clerical staff to carry out the board's duty to enforce dentistry laws. Administrative staff to the board consists of an executive director, two administrative assistants, and one licensing technician. Section 63-5-105, *Tennessee Code Annotated*, grants the board the following powers and duties:

- creating rules and regulations for and conducting exams of applicants for licenses to practice dentistry, for certificates to practice a specialty in dentistry, and for licenses to practice as a dental hygienist or registered dental assistant;
- providing standards for dental schools and colleges and schools of dental hygiene, as well as instruction for dental assistants;

- issuing licenses to qualified applicants for the practice of dentistry and dental hygiene, issuing specialty dental certificates, and registering dental assistants;
- conducting hearings to revoke, suspend, or otherwise discipline the holder of any license or certificate issued by the Board of Dentistry for violation of board rules and regulations;
- evaluating facilities, equipment, and personnel of dentists who use general anesthesia, deep sedation, or conscious sedation as the board deems appropriate; and
- establishing fees to carry out and make effective the provisions outlined above.

As of December 31, 2015, the board oversees 17,905 two-year licenses: 3,830 dentists, 4,663 dental hygienists, and 9,412 dental assistants. This is 492 more than the year before. A few of the many fees were lowered in 2013. For more details on the current fees, revenues, and expenditures for fiscal years 2012 through 2015, as well as board reserves, see Appendix 2 on page 16.

AUDIT SCOPE

We audited the Board of Dentistry's activities for the period January 1, 2012, through December 31, 2015. Our audit scope included a review of internal controls and compliance with laws and regulations that are significant within the context of the audit objectives. Management of the board is responsible for establishing and maintaining effective internal controls and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

DENTAL OFFICE OWNERSHIP AND OPERATIONS OVERSIGHT

The Tennessee Board of Dentistry has specific statute, rules, and regulations regarding dental office ownership and operations.

The objectives of our review were to determine whether or not the board

- tracks and monitors office ownership of dental practices to ensure that all are owned by licensed Tennessee dentists as required by statute;
- ensures that all dentists' current practice addresses are submitted and on file in practitioner profiles as required by statute; and
- ensures that dentists with sedation permits comply with the board's detailed rules and regulations for office operations.

To accomplish these objectives, we interviewed board members, board staff, and its director; reviewed relevant statute, rules, and regulations; and contacted surrounding states and a national dental organization to establish best practices for the inspection of dental offices.

Finding

1. The Board of Dentistry and its staff do not, as required by statute, ensure that all dental practices are owned by licensed Tennessee dentists and that all practice addresses are kept current and on file in dentists' practitioner profiles

Despite statutory requirements, the Board of Dentistry and its staff do not obtain the information necessary to locate all dental practices and track and monitor office ownership to ensure that all are owned by licensed Tennessee dentists. Section 63-5-121, *Tennessee Code Annotated*, requires that active dental practices be owned by a dentist licensed to practice in Tennessee. In Section 63-51-105, *Tennessee Code Annotated*, the board is required to collect information that includes the location of each licensee's primary practice and to make that information available to the public.

Dental Office Ownership

Section 63-5-121, *Tennessee Code Annotated*, requires that all active dental practices be owned by a dentist licensed in Tennessee. According to the board's chair and attorney, this statute exists to protect the citizens of the State of Tennessee by granting the board jurisdiction over the owner of a dental practice. However, we found that there are no checks in place to make sure practitioners provide ownership information. In fact, the board director went so far as to state that the board does not check on this information because she does not think the board has authority over dental offices, only over practitioners.

Practice Addresses in Practitioner Profiles

Section 63-51-105, *Tennessee Code Annotated*, requires the board to collect background and disciplinary information from dentists to create individual practitioner profiles and make this information available to the public; this includes the address of a dentist's primary practice. The board requires dentists to submit their practitioner information to the board via a profile questionnaire that is available on the Department of Health's website. This questionnaire instructs licensees that they must complete and return the form as part of their initial licensure process and update it within 30 days of any changes.

Over the course of the audit, we obtained practitioner information and found that 1,281 out of 3,766 entries had missing or incomplete practitioner profile information where primary practice address data should have been listed (one dentist with multiple offices or multiple dentists at one office). We also obtained and compared a list of registered dental X-ray tubes from the Department of Environment and Conservation's Division of Radiological Health (DRH) to the board's list of unique addresses. DRH showed 2,171 dental offices with registered x-ray tubes, 480 more offices than our review of the board's database found. The January 2015 issue of the Tennessee Dental Association's bimonthly newsletter reminded practitioners that they are required to file this information with the board. The board's director and staff told us that staff simply did not have the time or resources available to monitor whether dentists have incomplete or missing information in their profile, that it is the dentists' responsibility to submit the information, and the board cannot force them to submit anything. However, the board does have the authority to discipline a practitioner who fails to furnish this information to the Department of Health.

Apart from a confirmation letter that the board sends to dentists when they submit the practitioner profile questionnaire, the board does not actively work to collect missing/unreported practice address information from dentists. However, in discussions with us, the newly hired assistant director with oversight of practitioner profiles expressed interest in reviewing practitioner profile data for accuracy and completeness. Accurate practitioner profile information is essential for members of the public who use this information to make informed decisions about their health care providers.

Recommendation

In order to ensure that all dental offices are owned by licensed Tennessee dentists and that the board can hold these practices responsible for the health and welfare of patients, the board and its staff should track and monitor dental office ownership. In addition, the board should strive to ensure that all practitioner profile data, specifically the practice address, is complete and accurate so the board can provide accurate information to the public for use in making informed health care decisions. The board should establish disciplinary measures should a practitioner fail to inform the board of practice ownership, practice addresses, or changes to that information.

Management's Comment

We concur. Board staff will include a question on the application for licensure that seeks information on the ownership of the practice where the dentist intends to work, if known at the time of application. To address deficiencies in practitioner profiles, board staff, utilizing the department's e-notify, will remind licensees periodically of the requirement to maintain up-to-date profile information, including practice location, and will include a statement reminding licensees that discipline can occur for failure to comply with state law. Board staff will prepare for review by the full board a policy authorizing board staff to utilize agreed citations (with a monetary penalty established by the board) as a vehicle to address practitioners who refuse to

update their profile within thirty days of being prompted by staff to do so. Additionally, the department's modernization of its online renewal system (expected to be fully functional by September 2017), will permit licensees to update existing profile information online. Finally, in the department's final phase of its upgrade to its online renewal system, online renewal will be linked to a mandatory update of existing profile information.

Finding

2. The Board of Dentistry should consider inspecting dental offices of those who use sedation and anesthesia to ensure compliance with regulatory requirements set forth by the board and to ensure office staff and patient safety

Section 63-5-105(6), *Tennessee Code Annotated*, authorizes the Board of Dentistry to perform on-site inspections of facilities, equipment, and personnel of dentists who use general anesthesia, deep sedation, or conscious sedation. Despite having this authority, the board and its staff have stated that routine office inspections of anesthesia and sedation permit holders are not currently feasible given their budget and staff. At this time, the board might inspect a dentist's office only if a formal complaint is filed.

We contacted the American Association of Oral and Maxillofacial Surgeons and eight southeastern states in order to gain an understanding of general best practices regarding dental office inspections. Of the seven states that responded to our inquiry (Georgia did not respond), all performed inspections of some kind for dental offices of sedation and anesthesia permit holders.

Table 1
Inspection Requirements for Sedation/Anesthesia Permit Holders in Southeastern States

	Inspects Sedation/ Anesthesia Permit Holders	One-Time Permit Issuance Inspection	Periodic Inspections	Frequency of Inspection
Tennessee	**N**	**N**	**N**	**None**
North Carolina	Y	Y	N*	Pending
Alabama	Y	Y	N	Initial Inspection
Arkansas	Y	Y	N	Initial Inspection
Missouri	Y	N	Y	Every 5 Years
Virginia	Y	N	Y	Every 3 Years
Kentucky	Y	N	Y	Every 5 Years
Mississippi	Y	N	Y	Every 5 Years
Source: Auditor interviews with surrounding states' Boards of Dentistry.**				

*North Carolina has a pending requirement for inspections every 5 years.
** Georgia did not respond.

North Carolina, Alabama, and Arkansas all perform inspections of dental offices of sedation and anesthesia permit holders prior to the issuance of the permit and do not perform

routinely scheduled inspections thereafter. The director of the North Carolina State Board of Dental Examiners, however, expressed that the board currently has new rules pending that would allow for routine inspections of sedation and anesthesia permit holders' offices every five years. The Virginia, Missouri, Kentucky, and Mississippi dental boards all perform routine inspections of dental offices of sedation and anesthesia permit holders every three to five years. Of the states reviewed above, Tennessee's Board of Dentistry is the only board that does not require a physical office inspection of any kind prior to or after the issuance of an anesthesia or sedation permit. Virginia and Arkansas accept the American Association of Oral and Maxillofacial Surgeons' (AAOMS) inspection reports and results in lieu of an inspection done by the board.

Dentists who are members of the AAOMS must have their office inspected by the organization's Office Anesthesia Evaluation (OAE) program every five years to maintain membership. The OAE program is administered through the AAOMS' component state societies and consists of the following four parts:

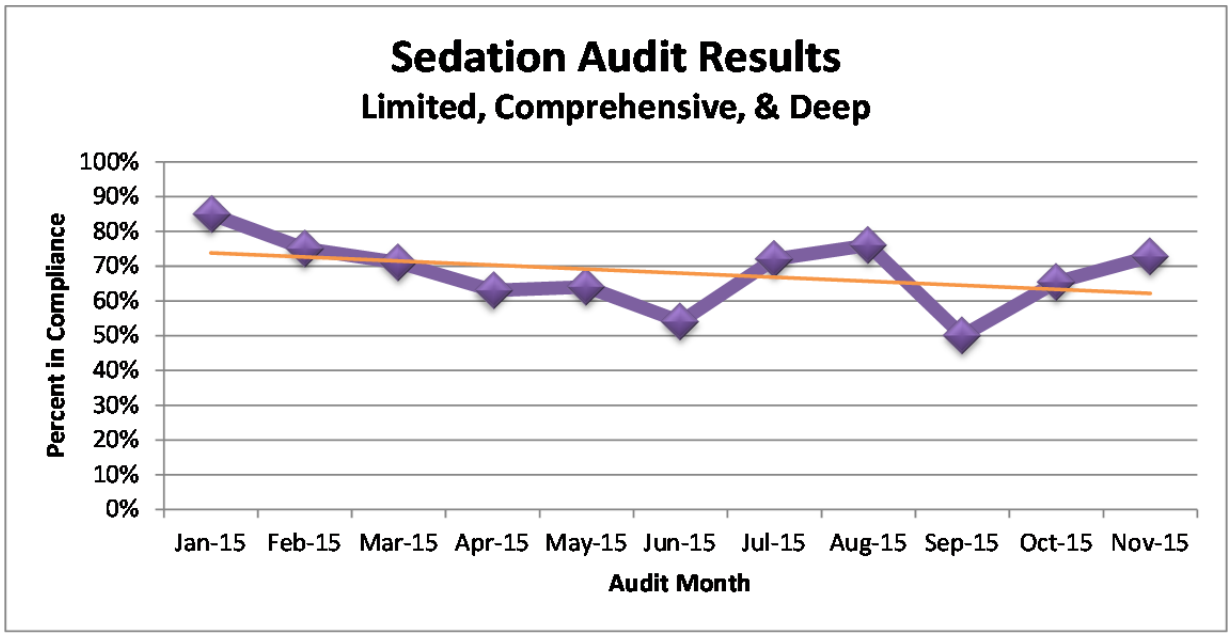
> Part I. An evaluation of the office facilities, emergency medications, and emergency equipment available;
>
> Part II. A demonstration by the oral and maxillofacial surgeon and his/her team of the management of simulated office emergencies;
>
> Part III: A discussion between the evaluators and the oral and maxillofacial surgeon that involves a critique of the emergency demonstrations and/or facility; and
>
> Part IV. An observation of the anesthesia/surgeries performed in the office (subject to state laws and patient consent).

The Tennessee Society of Oral and Maxillofacial Surgeons (TSOMS) currently has 163 members. The Tennessee board and its staff stated they were not as concerned with inspecting the offices of AAOMS/TSOMS members as they were with inspecting non-members because they know members are routinely inspected by the AAOMS. However, the AAOMS only inspects the office of oral and maxillofacial surgeons (typically deep sedation or anesthesia permit holders), so an unknown number of offices for 462 out of 625 limited, deep, and comprehensive sedation permit holders go uninspected.

In lieu of on-site office inspections of sedation or anesthesia permit holders, in January 2015 the board began to require monthly self-audits of all permit holders who renewed their license in the previous month. The sedation/anesthesia self-audit form sent to permit holders asks for proof of Advanced Cardiovascular Life Support or Pediatric Advanced Life Support certification, as well as proof of four hours of continuing education in either sedation or anesthesia from the current continuing education cycle. The audit form also asks permit holders to respond to a series of yes or no questions regarding on-site equipment and medication. The Health Related Boards' Office of Investigations may perform an on-site inspection of the facility if there is an issue brought to light by the self-audit form. Since the sedation/anesthesia audit was implemented in January 2015, dentists' compliance has not been optimal; rather, compliance has been trending downward. For the period January 1, 2015, through November 31, 2015, on average, only 68% of dentists audited complied with the board's sedation and anesthesia rules

and regulations. Noncompliance can include a dentist's failure to respond to the audit; lack of continuing professional education hours; and/or insufficient medication, equipment, and certifications necessary to maintain their permit.

Chart 1



Source: Board of Dentistry Sedation Audit Results.

The board and its staff have expressed that the sedation self-audit will make dentists more aware of the requirements necessary to maintain this permit and, over time, the board hopes that the self-audit results will improve and weed out licensees no longer practicing sedation and anesthesia on patients.

The board should perform routine dental office inspections of sedation and anesthesia permit holders in order to ensure that dentists who use sedation and anesthesia adhere to the regulatory requirements set forth by the board and are competent and have the appropriate medication and equipment in case of "complications and emergencies, such as respiratory spasms, aspiration of foreign material, airway obstruction of foreign body; angina pectoris, myocardial infarction and cardiac arrest; blood pressure problems; drug allergies; hyperventilation and convulsions; and anesthesia for patients suspected of substance abuse."

Recommendation

In order to better protect the health and safety of the citizens of Tennessee and ensure compliance with rules and regulations regarding office operations, the board may wish to align its inspection practices with the best practices of the surrounding states.

The board and its staff should explore the option of performing office inspections of sedation and anesthesia permit holders to ensure that all offices of dentists who use general anesthesia, deep sedation, or conscious sedation are in compliance with the board's rules and

regulations. The board would need more staff in the form of inspectors. However, from looking at the board's financial information (see Appendix 2), the board should be able to absorb this cost. In addition, the board may wish to consider accepting AAOMS inspection reports as an option in lieu of a state inspection for AAOMS members. Rules and regulations exist to ensure patient safety, and office inspections help ensure that patients receive treatment in the safest way possible.

Management's Comment

We concur. Section 63-5-105, *Tennessee Code Annotated,* is an enumeration of the powers of the board including the evaluation of those who use deep sedation in the practice of dentistry. While Section 63-5-105(6), *Tennessee Code Annotated,* does not mandate the performance of regular and routine inspections of dentist's offices, we agree that this is a best practice. Currently, the board exercises this discretionary authority in relation to complaints received. In response to a complaint, an inspection is done of the facilities, equipment, and personnel of a dentist's office. Therefore, the recommendation shall be an agenda item for further consideration by the Board of Dentistry's Sedation Committee to explore the feasibility of implementing an inspection regime.

CONTINUING EDUCATION

The Board of Dentistry requires varying hours of continuing education across a two-year period for dentists (40 hours), dental hygienists (30 hours), and dental assistants (24 hours). These totals for all licensees must include at least two hours in chemical dependency education; dentists who hold sedation and anesthesia certification must also include in these totals four hours in sedation and anesthesia topics.

Health Related Boards' policy requires monthly continuing education compliance auditing for all boards, councils, and committees assigned to Health Related Boards. As stated in the policy, a Compliance Unit is tasked with administratively overseeing monthly audits of a percentage of licensees that renewed the prior month (including obtaining samples, contacting licensees under audit, and tracking the audit process such as when documentation comes in and goes out and when a licensee is found compliant or not). The Compliance Unit does this for all health related boards but administratively reports to the director of the Board of Dentistry. The actual audit that determines if continuing education documentation shows compliance with requirements is performed by a board director or administrator.

Our objective was to determine

- the continuing education audit processing timeliness,
- the director's reporting accuracy to the board, and
- any attempts made to improve compliance with continuing education requirements.

To meet our objective, we reviewed and analyzed the Health Related Boards' policy, Compliance Unit tracking sheets, compliance reports for all boards, and the director's compliance reports to the Board of Dentistry.

Finding

3. Continuing Education compliance audits of Board of Dentistry licensees could be completed in a timelier manner; the results reported more accurately to the board; and additional licenses pulled in the sample to take the place of those erroneously pulled for audit or dropped by the director for other reasons

Since at least 2012, the Board of Dentistry has had a low percentage of its licensees compliant with continuing education requirements.

Table 2
Continuing Education Compliance Rates

	Dentists	Hygienists	Assistants
2012	73%	76%	69%
2013	65%	74%	53%
2014	75%	68%	49%
2015 (Jan-June)*	81%	82%	59%

*Percentages for the first six months of each year are generally higher than they are for the full year.

According to board staff, noncompliant licensees state that they did not know continuing education was required. However, the information is obviously available on the board's website and in statute, rules, and policies governing licensure. The board has also done a yearly newsletter for the last couple of years that provides licensees of their responsibilities for retaining their license.

Continuing Education Audits

The Health Related Boards (HRBs) requires all boards conduct monthly continuing education audits. The Board of Dentistry has chosen to audit a random 5% of the previous month's license renewals. The HRBs' Compliance Unit spearheads this effort and keeps track of when documentation is sent to and received from licensees and when deficiency letters are sent and compliance is met. A Notice of Audit letter requires continuing education documentation to be sent to the Compliance Unit within 30 days. The actual audits are performed by the boards' staff, in this board's case, the director. If the licensee is found noncompliant, a Notice of Non-Compliance gives an additional 10 days from the letter for the Compliance Unit to receive documentation before the file is turned over to the board director for audit noncompliance and possible disciplinary action.

Auditor Assessment of Data and Assertions

We reviewed tracking documentation kept by the Compliance Unit for all audited licensees since 2012, focusing particularly on those audited between January and June 2014 and 2015. In our analysis, we considered as noncompliant those who were deemed noncompliant by the Board of Dentistry; those who took over 40 work days between the Notice of Audit and second notice and/or Compliance Letter; those who did not reply; and those with whom contact was made but who sent no documentation.

Our analysis showed the following:

1. The director is auditing slightly less than 5% of renewals because the director is taking some files out (ineligible, waived, etc.) and not replacing them with other files drawn for this purpose.
2. The director tends to under-report to the board the total number audited and how many were noncompliant, and the director is inconsistent in including licensees waived or retired in audit totals.
3. The director's monthly audits took up to 6 months (4.7 to 6 months), and the audit window for submitting proof of continuing education extended over 5 months (average 4.9 to 5.4 months). In fact, as of February 4, 2016 (when data was pulled), the last six months of calendar year 2015 audits were still open.

Recommendation

We recommend that the director communicate with the Information Resources Unit to arrange to have the unit pull not only 5% of renewals from a month but also an additional small number to be used in place of licenses removed from the audit sample by the director for any reason. This will ensure that the full 5% is audited each month.

The director needs to improve the accuracy and consistency of audit result reporting to the board, be more consistent in the process used, and reduce time taken to determine continuing education compliance.

The Division of Health Related Boards needs to revise its Continuing Education Audit policy to include a timeframe within which audits should be completed to avoid having audits open for four to six months.

Management's Comment

We concur. The director has informed the Information Resource Unit to increase the number of licensees subject to audit by 3% to compensate for any licensees erroneously pulled or otherwise not subject to audit. We concur that the continuing education process is lengthy; the notice requirements are necessary to ensure that our licensees are afforded due process in showing compliance. That said, a review of that process is underway and if areas of inefficiency

are discovered, they will be addressed. Of importance, the board has agreed to participate in a pilot project whereby licensees under their jurisdiction will be required to participate in a web-based continuing education tracking system. A request for proposal has been prepared which seeks a vendor with this capability. This request for proposal has been prepared, is under review, and should be available for bid in the near future. We believe this pilot project will greatly improve efficiency, promote better customer service, and enhance patient protection.

LICENSURE AND REGULATORY SYSTEM (LARS) TRANSITION

The Department of Health transitioned from its old computerized licensing system, Regulatory Boards System (RBS), to its replacement system, Licensure and Regulatory System (LARS), in April 2015.

The objective of our review was to determine whether appropriate steps were taken to ensure the validity and reliability of the Board of Dentistry's licensing data after its migration from RBS to LARS.

To accomplish this objective, we spoke with the Department of Health's Chief Information Officer for the Information Technology Services Division; interviewed LARS application system support personnel; contacted Strategic Technology Solutions (formerly the Office of Information Resources) in the Department of Finance and Administration; reviewed relevant information technology policies and procedures regarding project management; and gathered relevant documentation of work performed.

Finding

4. The Department of Health's Information Technology Services Division did not retain documentation of its post-implementation review testing to ensure that the Board of Dentistry's and all health related boards' licensing data was successfully migrated from the Regulatory Boards System (RBS) to the Licensing and Regulatory System (LARS) and that the licensing data in LARS is valid and reliable

The Department of Health was able to provide auditors with email documentation and User Acceptance Testing plans that show the functionality of LARS was tested prior to data migration; however, it was unable to provide post-implementation review documentation that showed all data had been successfully migrated from RBS to LARS in April 2015 and found valid and reliable. The Department of Health's Information Technology Services Division follows Tennessee Business Solutions Methodology for information technology projects in order to provide a uniform framework for planning and executing Information Technology projects throughout the State of Tennessee. As a project management best practice, documenting and retaining every step of a project ensures that management can make better decisions and learn from previous challenges on new projects. Creating and maintaining documentation of work performed over the life cycle of the project also demonstrates that the project followed Tennessee Business Solutions Methodology and shows all appropriate steps were taken to ensure

that all data was tested and successfully migrated from RBS to LARS and that the data is valid and reliable.

Recommendation

The Department of Health should maintain documentation of testing and edit work performed on information technology projects for assurance that the data within a given system or the data migrated from one system to another is valid and reliable so that management can use the data to make good decisions.

Management's Comment

We concur. While Health Licensure and Regulation has seen several successful months of LARS use and operation, we acknowledge that efforts to document the migration and testing process from RBS to LARS in a comprehensive, organized manner were somewhat hampered by turnover in project management. The Information Technology Services Division has recently established a Project Management Office and has staffed this section with a team of experienced project managers in order to address challenges identified during the implementation of LARS. Additionally, the division is also staffing our release management section with a team of quality testers and testing analysts. The lessons learned from the implementation and documentation of this project will be used going forward to improve deliverables for projects such as LARS.

BOARD VACANCIES

Finding

5. Board vacancies are not being filled in a timely manner and some terms have not been staggered, as required by statute, so that no more than three board members' terms expire each year

As of June 30, 2016, one board position has been vacant since March 2015, two have been vacant since March 31, 2016, and another became vacant as of June 30, 2016. In all but one case, the board members have continued to serve until a successor is named, as is allowed by statute. Section 63-5-103(d)(1), *Tennessee Code Annotated*, requires that the Governor make appointments to the Board of Dentistry no later than one month after the expiration of the term of office of any member. After one month, if the Governor has not made an appointment, statute states the board shall fill the vacancy. However, the board does not feel comfortable bypassing the Governor in making appointments and always defers back to him.

Section 63-5-103(c), *Tennessee Code Annotated*, staggers the board members' three-year terms so that no more than three members' terms expire in a year. We reviewed board members' appointments and found four board members' terms are set to expire in 2017.

Recommendation

To ensure the most efficient and effective operations, the board should fill the three existing vacancies immediately as the Governor did not fill them within a month and the board has the statutory authority to do so. The board should also consult with its legal counsel as to the proper way to bring members' terms into compliance with the statutory requirement that only three terms expire in any given year.

Management's Comment

We concur. Going forward, the director for the Board of Dentistry will identify anticipated vacancies 12 months prior to the expiration of the term of a current member and shall determine the interest and eligibility for reappointment of the current member. This information will be shared with the Deputy Director for the Division of Health Licensure and Regulation, who will contact professional organizations for nominations for the board seat. Simultaneously, the Deputy Director will contact the Governor's Office regarding anticipated vacancies for potential candidates of which they may be aware. Finally, the Deputy Director will keep a file of interested and qualified candidates as they may apply from time to time and ascertain periodically, but no less than annually, their continued interest and availability, so as to maintain, to the extent possible, a pool of qualified applicants.

STATEMENTS OF NECESSITY FOR BOARD MEETINGS

Observation

1. The Board of Dentistry is not properly including required statements of necessity in meeting minutes and is not filing such statements with the Secretary of State when, to achieve a quorum, members are allowed to tele-participate in meetings

We reviewed all Board of Dentistry meeting minutes from January 2013 through March 30, 2015, to determine whether board meetings and members met key statutory requirements. During this time, the board allowed for teleconferencing to achieve a quorum in two meetings, neither of which reflected a statement of necessity in its minutes. In addition, only one of the meetings had a determination of necessity on file with the Secretary of State's office.

Section 8-44-108(b)(2-3), *Tennessee Code Annotated*, requires that, if a physical quorum is not present at a board meeting's location, the board must make a determination of the necessity for board members to participate by electronic or other means to achieve a quorum. This determination and a recitation of the facts and circumstances upon which the decision was made must be included in the meeting minutes and must be filed with the Secretary of State within two days of the board meeting. Health Related Boards' Policy 405.5 also states these requirements.

Statements of necessity that include the facts and circumstances of that necessity should be formally made by the board and included in the minutes every time a physical quorum at the board meeting site is not possible and members are allowed to participate by electronic or other means to achieve a quorum. The board and its legal counsel should ensure that such statements are filed with the Secretary of State's office within two days of the meeting date.

APPENDICES

Appendix 1
Title VI and Other Information

The Tennessee Human Rights Commission (THRC) issues a report, *Tennessee Title VI Compliance Program* (available on its website), that details agencies' federal dollars received, Title VI and other human rights related complaints received, whether the agency Title VI implementation plans were filed timely, and whether THRC findings were taken on agencies. Below are staff and board member demographics, as well as a summary of the information in the latest THRC report for the Department of Health that covers the Board of Dentistry, as the board does not file Title VI compliance reports for itself.

The Department of Health filed its implementation plan with the THRC before the October 1, 2014, deadline. The Board of Dentistry receives no federal funds. The board had no complaints or findings.

Board of Dentistry
Ethnicity and Gender
June 2016

	White	Black	Other
Male	4	0	1
Female	5	0	0

Note: Effective June 30, 2016, there are four vacant positions, three of which are being held by the previous appointee until a replacement is named.

Board of Dentistry
Staff Ethnicity and Gender
By Job Position
April 2015

	Male	Female	White	Black
Director	0	1	1	0
Administrative Assistant 2	0	2	2	0
Licensing Technician	0	1	0	1

Appendix 2
Board of Dentistry
Fees Effective July 16, 2013, and
Revenue and Expenditures FY 2012 through FY 2015

0460-01-.02 FEES. The fees authorized by the Tennessee Dental Practice Act (T.C.A. §§ 63-5-101, et seq.) and other applicable statutes are established and assessed by the Board as non-refundable fees, as follows:

(1) Dentists	
(a) Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to dual degree and criteria (reciprocity) licensure applicants	$400
(b) Limited and Educational Limited Licensure Fee – Payable each time an application for a limited or an educational limited license is filed.	$150
(c) Criteria (Reciprocity) Licensure Fee - Payable each time an application for a criteria reciprocity) license is filed. This fee is to be paid in addition to the licensure application fee.	$150
(d) Specialty Certification Application Fee - Payable each time an application for a specialty certification is filed.	$150
(e) Student Clinical Instructors Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-02-.04 (5).	$10
(f) Permit Fees - (limited conscious sedation, comprehensive conscious sedation, deep sedation/general anesthesia) Payable each time an application for a new permit or a biennial renewal of a permit is filed.	
1. Initial Permit Fee	$300
2. Biennial Permit Renewal Fee	$100
(g) Licensure Renewal Fee – Payable biennially by all licensees excluding Limited, Educational Limited and Inactive Pro Bono licenses.	$250
(h) Limited and Educational Limited Licensure Renewal Fee - Payable biennially	$50
(i) State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees.	$10
(j) Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees.	$750
(k) Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate.	$30
(l) Inactive Pro Bono Renewal Fee	$0
(2) Dental Hygienist	
(a) Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to criteria approval and educational licensure applications.	$115

(b) Criteria Licensure Fee - Payable each time an application for criteria approval licensure reciprocity) is filed. This fee is to be paid in addition to the licensure application fee. $50

(c) Educational Licensure Fee - Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. $50

(d) Student Clinical Instructor Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-03-.04(5) $10

(e) Licensure Renewal Fee - Payable biennially by all licensees, including criteria approved and educational licensees. $100

(f) State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees. $10

(g) Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees. $200

(h) Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed "artistically designed" wall license or renewal certificate. $20

(i) Examination Fee - Payable each time an application is filed to take a Board-approved examination as provided in rule 0460-03-.05 (1) (a) or the National Boards' examination, and when the applicant has been instructed to submit this fee directly to the Board. $875

(3) Dental Assistants

(a) Registration Application Fee - Payable each time an application for a registration to practice as a dental assistant is filed. $30

(b) Registration Renewal Fee - Payable biennially by all registrants. $50

(c) State Regulatory Fee - Payable upon application for registration and biennially thereafter by all registrants $10

(d) Reinstatement Fee - Payable when a registration is not timely renewed and which is paid in addition to all current and past due registration renewal fees. $100

(e) Duplicate Registration Fee - Payable when a registrant requests a replacement for a lost or destroyed "artistically designed" wall registration or renewal certificate. $20

(f) Coronal Polishing Certification Fee – To be paid to the Board's Administrative Office. $15

(g) Sealant Application Certification Fee - To be paid to the Board's Administrative Office. $15

(h) Radiology Certification Fee – To be paid to the Board's Administrative Office $15

(i) Nitrous Oxide Monitoring Certification Fee – To be paid to the Board's Administrative Office $15

(j) Expanded Restorative Functions Certification Fee – To be paid to the Board's Administrative Office $15

(k) Expanded Prosthetic Functions Certification Fee – To be paid to the Board's Administrative Office $15

(4) Fees may be paid in the following manner:

(a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Tennessee Board of Dentistry.

(b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Source: Secretary of State's website.

Board of Dentistry
Revenue and Expenditures*

Expenditures	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**
Salaries & Wages	$142,001.68	$158,057.55	$162,434.14	$163,012.00
Employee Benefits	76,816.30	77,073.63	78,460.85	78,486.21
TOTAL PAYROLL	$225,517.98	$235,131.18	$240,894.99	$241,498.21
Travel	$ 22,894.91	$ 27,471.17	$ 33,014.09	$ 24,037.02
Communications	30,757.91	16,823.44	17,535.29	16,002.50
Prof. Svc. & Dues	109,310.52	71,432.75	8,270.07	14,016.48
Supplies & Materials	97.15	-	550.00	17.39
Rentals & Insurance	-	-	-	97.96
Grants & Subsidies	-	47,176.94	173,250.00	136,701.13
Training of State Employees	4,995.00	4,500.00	4,835.00	5,414.00
Computer Related Items	11,668.90	-	-	-
State Prof. Svcs.	34,695.72	42,814.36	45,161.50	32,043.85
TOTAL OTHER	$214,420.11	$210,218.66	$282,615.95	$228,330.33
TOTAL DIRECT EXP	**$439,938.09**	**$445,349.84**	**$523,510.94**	**$469,828.54**
Allocated Expenditures				
Administration	$193,312.86	$211,380.14	$269,773.81	$218,271.42
Investigations	136,354.92	91,313.51	107,463.67	137,784.98
Legal	75,722.65	48,819.81	44,664.36	38,663.76
Cash Office	13,699.70	14,899.00	13,477.12	13,385.57
TOTAL	$419,090.13	$366,412.46	$435,378.96	$408,105.73
Total Expenditures	**$859,028.22**	**$811,762.30**	**$958,889.90**	**$877,934.27**
Fee Revenue	**$1,579,414.92**	**$1,637,724.75**	**$1,179,649.84**	**$1,185,329.80**
Current Year Net	**$720,386.70**	**$825,962.45**	**$220,759.94**	**$307,395.53**
Carry-Over/Reserves	**$2,670,957.62**	**$3,496,920.07**	**$3,717,680.01**	**$4,025,075.54**

*Expenditure line items showing no funds expended in the four years shown were removed.